

	<b>REPORT TO CABINET TO BE HELD ON 14 FEBRUARY 2016</b>	
	<b>Key Decision</b>	<b>Yes</b>
<b>Corporate Priority Aim 3 – Creating Healthy and Vibrant Communities</b>	<b>Forward Plan Ref No</b>  <b>Cabinet Portfolio Holder</b>	  <b>Cllr Bill Chatt, Cabinet Member for Public Health and Housing</b>

**REPORT OF: DIRECTOR (TW) 17/28**

**WARDS AFFECTED: ALL**

**SUBJECT: RESIDENTIAL REGULATION ENFORCEMENT  
POLICY**

**RECOMMENDATION (S):**

Cabinet is asked to recommend to Council the approval of a new residential regulation enforcement policy.

**REASON FOR RECOMMENDATION**

The proposed policy has been developed in order to provide clarity to officers, members, the public (tenants and landlords) and other key stakeholders of the roles and responsibilities of the Council with respect to undertaking enforcement action in respect of residential premises.

The new policy combines key elements of housing enforcement policy and environmental health enforcement policy regarding residential dwellings.

Changes are being recommended to ensure that the Council takes a robust, fair and consistent approach toward meeting its legal obligations and to ensure that the Council's approach accords with current guidance and legislation.

**HIGHLIGHTED RISKS:**

See attached matrix.

## **1. INTRODUCTION**

- 1.1 In May 2011 Cabinet considered report 11/233 and approved the adoption of a Housing Enforcement Policy.
- 1.2 Restructure within the Council's Environmental Health and Housing Services and the creation of a new Residential Regulation team (that combines housing and environmental health related enforcement activity), along with changes to legislation and guidance and the proposed introduction of Selective Licensing of private rented accommodation within parts of the Borough has meant that a more comprehensive review of the Council's Housing Enforcement Policy is now required.
- 1.3 This report seeks Cabinet approval for the adoption of a new policy (**appendix A**). This policy is an interim policy being introduced in advance of a wider single enforcement policy to be considered by Cabinet and Council this year.

## **2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN**

- 2.1 Contributes to Aim 3 of the Council's Corporate Plan, 'Creating Healthy and Vibrant Communities'.

## **3. BACKGROUND AND ISSUES**

- 3.1 The Council needs a residential regulation enforcement policy to ensure that it takes a fair but robust approach towards meeting its legal obligations and to ensure that its practices accords with current guidance.
- 3.2 The Council adopted its housing enforcement policy in 2011. This policy has since been subject a number of minor changes and updates. A more comprehensive update to the Council's policy is now required for a variety of reasons, these include:
  - In January 2017 following internal restructure, the creation of a single residential enforcement team. This new team combines enforcement functions relating to residential premises into one single team that were previously undertaken by its Private Sector Housing and Environmental Regulation teams.
  - The proposed introduction of Selective Licencing in 2017. This change, if approved has significant implications in terms of the way the Council deals with nuisance and hazards within residential premises.
  - Various changes to legislation and regulations, including the Housing and Planning Act 2016 and the Smoke and Carbon Monoxide Alarm Regulations 2015.
  - Various changes in day to day practice, including a greater level of emphasis being placed on management standards along with general process improvements including a more holistic and generic approach to tackling issues.

- A greater level of emphasis on partnership working between agencies, in particular joint working through the new Community Impact Team.
- 3.3 In addition, since 2011 a number of ad-hoc separate policy changes have been adopted, including for example the Council's approach to the use of Enforced Sale of long term empty homes and its approach to tackling Houses in Multiple Occupation.
- 3.4 This report seeks approval for a new enforcement policy (**appendix A**) and highlights the key changes being recommended. It consolidates changes that have already taken place into one single document and creates the enforcement guidelines needed for the new Residential Enforcement Team.

## 4.0 CONSULTATION

- 4.1 The majority of this policy document reflects the legislative requirements placed on the Council and therefore there been no public consultation. The development of different elements of this policy have however been supported through consultation with a variety of internal and external stakeholders including the Police and Fire and Rescue Service.

## 5.0 ASSESSMENT

- 5.1 The new policy seeks to clarify the Council's approach to securing compliance with the law in relation to enforcement matters regarding residential accommodation. It seeks to:
- Highlight the Council's approach in relation to its use of various enforcement powers.
  - Clarifies what the Council will and will not do.
  - Explains the Council's inspection regime and its process for dealing with service requests and its target response times.
  - Highlight variations in approach, for example its differences in approach to dealing with private landlords, home owners and housing associations.
- 5.2 A number of key changes are being proposed within the new policy. These include:
- Tightening of the Council's approach regarding notice arrangements to landlords and the 'power to gain entry' under certain circumstances (2.6-2.8).
  - Greater emphasis on the enforcement of HMO Management Regulations (2.13).
  - A broadening of the range of issues to be dealt with by the new team and increased emphasis on partnership working (2.14 – 2.16).
  - An incorporation of environmental nuisance matters into the policy (4.0)
  - Greater clarity in terms of the Council's process for dealing with drainage issues within residential premises (4.14 – 4.16).
  - In accordance with the **Housing and Planning Act 2016**, the introduction of the option of civil penalties as an alternative to prosecution under certain circumstances (3.9, 4.9 & 5.0)

- Incorporation of enforced sale powers into the policy (8.0) and the Council's policy approach to dealing with complaints regarding High Hedges (10.0).
- In accordance with the **Smoke and Carbon Monoxide Alarm Regulations (England) 2015** the introduction of a maximum fine (£5000) for landlords who fail to comply with compliance notices regarding the provision of smoke alarms and carbon monoxide alarms where needed.

5.3 It is also important to note that this policy has been developed having had regard to the capacity of the Council to undertake enforcement action in a meaningful way. Key themes within the policy to ensure that this is effective include:

- Greater flexibility in terms of the use of different powers by officers (that would previously have been undertaken by different services and sections within the Council).
- More emphasis on what the Council will and will not do.
- Less emphasis overall on discretionary and advisory support to landlords and greater emphasis on their responsibilities.
- Increased emphasis on partnership working.

## 6.0 IMPLICATIONS

### 6.1 Policy

This report seeks Cabinet approval for the adoption of a new Housing Enforcement Policy. This policy is an interim policy being introduced in advance of a wider single enforcement policy to be considered by Cabinet and Council this year.

### 6.2 Financial

There are no financial implications. This policy has been developed having had regard to existing levels of resources.

### 6.3 Legal

The policy document highlights the legal powers and obligations of the Council contained within a variety of legislative acts and orders, including; the Housing Act 2004 and the Management of Houses in Multiple Occupation (England) Regulations 2006.

### 6.4 Equalities and Diversity

The use of appropriate enforcement action to enable people to live in safe and secure housing has a positive impact on equality and diversity issues.

### 6.5 Staffing Issues

There are no staff implications.

### 6.6 Planning, Environmental, Health and Safety, Sustainability, Crime and Disorder

The use of appropriate enforcement action to enable people to live in safe and secure housing has a positive impact in terms of environmental, health and safety and crime and disorder issues.



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**Background Papers: None**

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT ANDREW ROWE ON 01723 383598 OR E-MAIL [andrew.rowe@scarborough.gov.uk](mailto:andrew.rowe@scarborough.gov.uk)

## Risk Matrix

<b>Risk Ref</b>	<b>Date</b>	<b>Risk</b>	<b>Consequences</b>	<b>Mitigation</b>	<b>Current Risk Score</b>	<b>Target Score</b>	<b>Service Unit Manager/ Responsible Officer</b>	<b>Action Plan</b>
1	Feb 2017	The Council does not have an adopted housing enforcement policy.	<p>Lack of clarity in terms of the Councils approach.</p> <p>Failure to comply with current legislation and guidance.</p> <p>Risk of inconsistency between officers.</p> <p>Risk of censure and challenge.</p>	Adoption of the Policy.	A1	A1	Housing Manager	

## Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

## Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

### Likelihood:

A = Very Low  
 B = Not Likely  
 C = Likely  
 D = Very Likely  
 E = Almost Certain

### Impact

1 = Low  
 2 = Minor  
 3 = Medium  
 4 = Major  
 5 = Disaster